
Posted on Mon, Apr. 14, 2003

First gel-candy trial near

MILLIONS IN DAMAGES AT STAKE IN SAN JOSE GIRL'S DEATH

By Dan Reed
Mercury News

No one in court this week will dispute that tragedy befell 12-year-old Michelle Enrile of San Jose -- the girl slipped from coma into death in July 2001 after gagging two years before on a piece of thimble-size gel candy.

The question posed to a Santa Clara County jury will be whether the candy maker knew the sticky, small treat could lodge in a child's throat, or whether it posed no more risk than peanuts or a round bite of hot dog.

At stake in the case that has garnered national attention are millions of dollars in damages and precedent. It is the first of several lawsuits -- three already scheduled in Bay Area courts -- against the candy makers.

Lawyers for the company, Sheng Hsiang Jen Foods Co. of Taiwan, have to surmount the fact that the U.S. Food and Drug Administration already has banned the candy, which by most accounts is a tasty, colorful treat, especially popular at small Asian-specialty markets. Gel candy's controversial record started in the mid-'90s in Japan, where it earned the nickname ``the deadly mouthful" for its occasional tendency to seal over a child's throat because of its shape and sticky consistency.

``This candy they designed is a very dangerous product," said Terry O'Reilly, attorney for Enrile's family. ``In Japan, they had all kinds of problems; eight deaths and over 80 injuries."

The country has since banned it.

The Enrile family has already settled with three firms, including the retailer and distributor of the candies, for about \$8 million, much of which paid for Michelle Enrile's medical care as she lingered in her coma.

The campaign to ban gel candy in the United States followed the deaths of Enrile and Deven Joncich, a 3-year-old Mountain View boy who died Nov. 5, 2000, after choking on a gel candy called Lychee Flavor Mini Gel Snack. His case, also brought by O'Reilly, is set for trial in August. The case for a third victim is set for June 16 in San Mateo County. Jury selection in the Enriles' case is supposed to begin this week.

Frank Revere, a Tarzana attorney representing the candy maker, did not return calls for comment Friday.

In 1999, a Japanese institute studied the candies and concluded that conjac jelly, which is used to bind the snack together, is extremely sticky and doesn't break down well in the moisture and warmth of the mouth. O'Reilly claims that even attempts at the Heimlich maneuver on the snacker can fail to dislodge it, sometimes just further jamming it in place.

After the Mercury News and other media began writing about the deaths, several chains -- including Safeway and Albertsons -- emptied their shelves of the candy. The Santa Clara County Department of Public Health issued a rare ``alert to parents" about the potential for choking. And, finally, the Food & Drug Administration recalled the candies and forbade their import.

The ban is still in effect, said a spokeswoman for the agency. ``Which means none of these gel candies that contain conjac are allowed to come into the country."

The treats are supposed to be off the shelves everywhere, too, although the FDA spokeswoman could not say whether follow-up checks on been done in any stores. Outlets still sell jelly candies, just not with the binder conjac.

Rep. Mike Honda, D-San Jose, who worked on a bill last year called the Food Choking Prevention Act, said through a spokesman Friday that the bill is being updated and will probably be introduced in May. It would develop better warnings and tracking for foods that may cause choking.

Contact Dan Reed at dreed@sjmercury.com or (408) 920-5771.

© 2003 Mercury News and wire service sources. All Rights Reserved.
<http://www.bayarea.com>